

Murder Cases

DRAWER 4 IMPORTANT LAW CASES

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Abraham Lincoln's Law Practice

Murder Cases

Excerpts from newspapers and other
sources

From the files of the
Lincoln Financial Foundation Collection

BOY WHO WON OVER LINCOLN UNIDENTIFIED

**'Honest Abe' Declared to Have
Defended Stranger During
Murder Trial in Illinois**

1926
CARTHAGE, Ill., March 21.—(By Associated Press.)—Search for the name of an unknown boy attorney who defeated Abraham Lincoln and T. Lyle Dickey when they defended a Schuyler County murderer in May, 1839, and for a legal document filed in the case in Lincoln's handwriting, is being made in Carthage.

Statements that Lincoln would never defend a murderer are inaccurate, as court records will show, said J. A. Thompson, an old resident of Monmouth, who is acquainted with the case.

"Lincoln was a lawyer practicing before the bar, just as any other attorney," Mr. Thompson declared.

MURDERER HANGED

"Somewhere in Carthage there is a motion in arrest of judgment in Lincoln's own handwriting, but that was taken from the records years ago, and has never been found since. The motion was overruled, and the murderer was hanged on May 19, 1839.

"The mutilated records of the court and tradition give the names of the attorneys for the defense as Abraham Lincoln and T. Lyle Dickey, who later became a justice in the Illinois Supreme Court. No record of the man's name who appeared against them can be found, however.

KILLED IN BRAWL

"The wording of the old records of Hancock County court is that 'William Frame killed a man of unpronounceable name in a saloon brawl in Frederick, Schuyler County,' and so on. Other records have the name of the murderer as Fielding Frame. The murderer and the man he killed were probably transients, for neither was known to the settlers. The case went to Hancock County on a change of venue from Schuyler County."

9
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H. E. DOERR
ASSISTANT TO THE PRESIDENT

ST. LOUIS

Oct, 24, 1935.

Dr. Louis Warren,
Fort Wayne, Ind.

Dear sir:

Enclosed find a clipping describing a small note book which is in my possession, and which I am trying to dispose of, by sale.

The book is written in pencil and was probably written in haste. From comparisons I have made with photostats etc., of Mr. Linclon's writing I am fairly well convinced that it is genuine in every respect. The case that the book refers to, took place in 1859, in Springfield.

If you are interested in this book I will be more than glad to send it to you for an examination. The enclosed envelope is for the return of the clipping and your answer.

Your name was given to me by the local manager of the Linclon National Life Insurance Company.

Thanking you for any help you may be able to give me, I am,

Yours truly,

Ralph H. Knight,
2504 Sutton Blvd.,
Maplewood, Mo.

Lincoln's Notes on Murder Case Brought to Light

Book Used by Emancipator in Defending Illinois Slayer Owned by George M. Ewing, Rolla, Mo.

Special to the Post-Dispatch.

ROLLA, Mo., July 13.—A small vest pocket notebook with Abraham Lincoln's notes of court testimony, in which the emancipator defended Harrison Quinn for the murder of John Greek in a small store belonging to B. F. Short of Pleasant Plains, Ill., when Lincoln first entered law practice many years before the Civil War, has been brought to light here by George M. Ewing, 73 years old, retired hotel proprietor. The notebook has been in Ewing's possession for 37 years.

Ewing has lived in Rolla for the past two years. He was formerly a native of Zanesville, O., but operated the Eureka Hotel in Tower Hill, Ill., as well as a hotel in Chicago Heights. Ewing was presented the Lincoln notebook in 1893 by a friend, John E. Kelly, who before 1890 practiced law with an aged attorney who had been in a law office with the emancipator in the 40s and 50s.

Kelly and Ewing met at Chicago Heights during the Chicago's world's fair where Ewing was operating a hotel at the time. A strong friendship resulted and after Kelly went to McAllister, Indian Territory (Oklahoma), Ewing followed in 1895, settling at Atoka, Indian Territory, where he operated the Bates Hotel for a number of years.

In the meantime, Kelly had formed a law partnership with an old man, whose name Ewing cannot remember. This man said he was formerly in an office with Lincoln. The book containing the notes on the trial scrawled in the courtroom by Lincoln was found in a law book of Kelly's old partner. Knowing that Ewing was a collector of old relics, Kelly gave the book to him.

Lincoln's Signature in Book.

The Lincoln book was brought out from its hiding place several weeks ago when the Rolla New Era attempted to uncover Lincoln relics in this section. It bears Lincoln's own signature on the inside cover and was evidently written hurriedly during the testimony so that Lincoln might more easily plan his defense of Quinn who stabbed Greek in a fight in a small store after Quinn is alleged to have made certain insinuations against the character of Greek.

Lincoln's written testimony reveals that a general fight occurred in the store shortly after the Fourth of July (year not stated) in which an accomplice of Greek's, John Parviance, attempted to kill Quinn by throwing "missiles" about the store in the direction of Quinn. Greek had made many threats against Quinn, the testimony shows, but Quinn carried a knife which belonged to a friend for protection.

The testimony of B. F. Short, owner of the store where the fight occurred, according to Lincoln's notes, follows: "Quinn was sitting on a stool five or six feet from the door where we were both looking over a paper. Greek came in and took hold of Quinn around the arms. I attempted to separate them. John (Parviance) attempted to prevent my separating them. Quinn caught hold of a railing and pulled loose. I saw Greek strike. John (Parviance) told me to let him alone that Greek could whip him. Quinn told him to keep off he could not fight and would not.

"Greek's coat was off, partly off as he came through the door. After they were separated, John (Parviance) threw the missiles at Quinn. Heard him (Quinn) ask if he had no friends. Quinn advanced on no person after the separation. (Nothing made on cross-examination)."

Did Not Die at Once.

Evidently Greek was not killed outright from the testimony of William Carson. Lincoln recorded his testimony as follows: "After the affray heard Greek say he knew Quinn had a knife, but thought he could prevent him from using it and when he went up to Quinn he caught him around the arms and calculated if he got his hands up and got his knife out, he would then take it from him and then whip him. He did not believe he could get hurt if Short (store owner) had not caught his (Greek's) arm and pulled it away. That let Quinn's arm loose and

he got his knife and stabbed him. "Heard Pete Livergood say that he saw John (Parviance) throw all the missiles and that he finally caught hold of John. John told him to let him loose and let him kill Quinn for he had ruined him. He said he did let him go and did not care a damn if the (Greek) did kill him."

Carson's testimony further states, Lincoln's record reads, "He also heard him say he did, at one time at the commencement, tell Greek to whip Quinn, but afterward told him not to do it."

The testimony of Abijah Hottingham implicates Greek, for he told the jury "Greek stated that Harrison (Quinn) had thrown out insinuations which he never would stand, and that he intended to resent them and on the first meeting of him and Quinn he intended to knock him down and stamp him in the face and beat him until he could not go. He said he would put him in a position that he would be unable to get out of his bed. He also at the same time stated he would whip

Quinn's brother, Peter, and for which he assigned no reason, and if Old Pate, which is Quinn and Peter's father, said anything about it or resented it in any way he would whip him.

"He said Quinn had threatened to cut him and to benooove him at the earliest opportunity to take the course above stated. He cared for no weapons that Quinn or any man in Pleasant Plains might have to bear upon him, and if there was any attempt to use the weapon he would chop them (the men) up. His friends had told him never to suffer such insinuation. Heard David Parviance tell him to thresh Quinn, that he would stand by and see him out in the attempt."

Lincoln further records that the knife of J. C. Bone was used in the fight by Quinn in the testimony of J. C. Bone, himself. "Harrison (Quinn) came to me and asked me if I had any tools with me. Quinn said he was afraid of being attacked by Greek. Quinn said he would not fight him and was not able to fight. After he got the knife, he would not give it up as he would have nothing with which to defend himself."

Harrison Quinn's inability to defend himself was brought out by Lincoln in the testimony of A. Atherton. Atherton stated on the stand, "Says Quinn was and is a man of feeble health, unable to do common labor. Gave a certificate of disability to do road labor."

In the fight which followed in the store of B. F. Short, John Crafton, who was also a witness of the fight, said, "Went there (to the store) and asked Short if any money had been left there for me. He (Short) said not. Sprang in to prevent Greek from receiving the wound, and received a cut in the right arm."

Names of Witnesses and Jurors.

Pete Livergood, who conversed with Harrison Quinn after the fight, stated Quinn had talked to him about the fight and the wound which was proving mortal to Greek. Livergood testified, "Quinn said he thought he (Greek) was bad hurt. Quinn said there was no danger of killing a hound. Said if his knife had been longer he would have done the work easier and quicker. No person was in the room but Whitehurst."

Lincoln recorded the following data in his notebook: "Men who heard Greek's threat at Indian Creek: Thomas Turley, Abijah Hottingham, Silas Livergood, John Allen, Fred Henry, Thomas White, John Parviance, Abram Weir, W. P. Crafton, Eliza C. Crafton and Tip Dorand."

Witnesses used by Lincoln to prove "Parviance as an accomplice: Mary Million, Doc, V. C. Cartwright, K. B. Furgep and A. Atherton." Greek's "Dying confession heard by: Peter Cartwright, John Slater, M. A. Cartwright and John Hollingshead."

The case, which was evidently tried at Springfield, Ill., carried the following names upon the "jury: John Powel, Charles Turiz, D. W. Boss, M. M. Warner, R. Lawrence, A. Hicks, G. S. Little, D. Z. Goean, James Masey, John Carpenter, Charles R. Hurst and S. W. Butter."

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H. E. DOERR
ASSISTANT TO THE PRESIDENT

ST. LOUIS Nov. 1, 1935.

Louis A. Warren, Director,
Lincoln National Life Foundation,
Fort Wayne, Indiana.

Dear sir:

Enclosed find the Lincoln note
book which I wrote you about.

Any help you can give me that
will throw any light on the origin or
history of the book will be appreciated.

Thanking you in advance, I am,

Yours truly,

Ralph H. Knight
2504 Sutton Ave
Maplewood, Mo,

November 6, 1935

Mr. Ralph H. Knight
2504 Sutton Avenue
Maplewood, Missouri

My dear Mr. Knight:

We wish to acknowledge receipt of the very interesting little book you have forwarded for our observation and we regret sincerely that we cannot agree with you that it is in the handwriting of Abraham Lincoln.

In making a careful comparison with Lincoln's handwriting in 1859 it does not appear as if there is a similarity between the letters used in the booklet and those made by Abraham Lincoln in any of his letters.

I think it might be safe to assume that Abraham Lincoln used this book but I cannot feel that he made the notes.

If you will turn to page 24, or the page that would be 24 if the book was numbered, you will find there an agreement of some one to take some ploughs from a man who evidently had a patent and who agrees to take two hundred of the ploughs.

This handwriting is in the same hand as the rest of the copy work in the book and if it could be determined who wrote this page, the author of the book might also be determined.

The suit of the People vs. Harrison, who was accused of the murder of Greek Crafton was first tried on Monday, August 1, and Lincoln, Herndon, Logan and Hoy were counsel for the defense.

It would be my thought that if you would forward this book to Mr. Logan Hay, Springfield, Illinois, he would probably be more likely to give the authorship

Acquittal of Client in Lincoln's First Murder 2/13/38 Case Puzzles Officials

Strange circumstances which gained an acquittal for a client of Abraham Lincoln in the emancipator's first murder trial were disclosed Saturday as a problem still puzzling students of his life.

One hundred years ago Lincoln, a 29-year-old attorney and member of the state legislature, defended William Truett, who was under indictment for the murder of a Springfield physician.

Little attention is paid to the case in Lincoln biographies, although it was his first "important" one, and today the Abraham Lincoln associa-

tion in Springfield is trying to reconstruct the facts surrounding the trial.

Found Not Guilty

Lincoln students cannot decide why Truett was not found guilty. Truett, the son-in-law of a congressman, had been appointed register of the land office at Galena in northern Illinois.

He was indicted March 15, 1838, for the murder of Dr. Jacob M. Early, whom he had shot in a Springfield hotel during a political argument.

The case came to trial several months later, with Lincoln and two other attorneys as defense counsel.

Selection of a jury required more than three days, as more than 400 veniremen were called. Springfield's population was only 1,500, and the judge, in desperation, finally called courtroom spectators at random as successive jury panels were exhausted.

The state and defense consumed little time in presenting their cases, but Lincoln and his two associates spent more than a day in giving their

final arguments. Their oratory apparently was effective since the jury found Truett not guilty.

Made Derogatory Remarks

According to the testimony, Dr. Early had made some derogatory remark about Truett at a democratic convention in Peoria. The tale reached Truett's ears and prompted him to make the journey from Galena to Springfield.

He demanded that Early disclose the source of his information, and when Early refused, shot him as they stood in the hotel lobby arguing. Early was unarmed and reportedly raised a chair to defend himself.

In the trial, however, the defense made no issue of the chair and made no effort to base its case on a plea of self defense.

The trial caused a great stir in Springfield because of the personalities involved. Truett's father-in-law, Congressman William L. May, was the nominal head of the democratic party in the city.

Testimony in the case reportedly has provided no clue to reveal why the jury returned the "not guilty" verdict, and the transcripts of the closing arguments have been destroyed.

Jurors to Be Studied

The Abraham Lincoln association now plans to study the individual jurors and hopes to learn their respective political affiliations in an effort to throw new light on the case.

The three defense attorneys all were leaders in the Whig party, while the trial judge, Jesse B. Thomas, was reported to be an ardent democrat.

Lincoln's two associates were Stephen T. Logan and Edward D. Baker. Baker gained a reputation as a brilliant orator and later was elected U. S. senator from Oregon. He was the only U. S. senator killed in the Civil war.

Lincoln's reward for his part in the case was the relatively handsome fee of \$500.

Abe Lincoln, Douglas Win Murder Trial

Decatur (Ill.) Herald
Clinton (Staff)
Aug. 31 - 1940

Written on a torn, smudged scrap of paper, the verdict read: "We, the jury, find the defendant not guilty."

A murder trial, one of Dewitt county's first, had ended. The defendant, Spencer Turner, charged with slaying Mathew K. Martin, was free.

Free, too, for other trials, other cases, and—years later—debates, were Spencer Turner's attorneys. One was Abraham Lincoln. The other was Stephen A. Douglas. Defeated in the prosecuting role was the county's first state's attorney, D. B. Campbell.

The trial over, Attorney Lincoln rode home on a horse Spencer Turner offered in payment. Attorney Douglas accepted \$200 in currency.

The account of Spencer Turner's indictment, his trial, his acquittal this week was found—a century later—in old records in the Dewitt county courthouse. Cal Atkinson, research editor for the Illinois Historical Record Survey, uncovered the story.

Kup's column

ONE OF THE CLASSIC legal stories always told about this time of year and which the Coronet Story-Teller, written by Ruth Walliser, will air via WENR tonight, concerns a famous Middle West murder trial of 1841. . . . The two Traylor brothers, William and Archibald, were on trial for the murder of an eccentric school teacher named Fisher. A third brother, Henry, broke down under a gruelling third degree and confessed that he had seen his brothers murder Fisher. . . . All the prosecution's evidence at the trial indicated that a guilty verdict would be returned.



Irv Kupcinet

When the young defense attorney arose, he informed the court that he had but one witness to offset the volume of evidence presented by the state. He then introduced the community's highly-respected doctor. The doctor testified that he learned long ago that Fisher suffered from amnesia and that on the day he was supposed to have been murdered, the school teacher merely had wandered away. More, he was very much alive and was living at the doctor's nearby home. The young attorney proved that all the state's evidence, including the younger brother's confession, was false. . . . And although he handled the case so brilliantly that it now is a shining legal example, the attorney, after waiting many years, had to sue the ungrateful brothers to collect his \$100 fee for saving their lives. The young lawyer was later to become one of America's greatest presidents—Abraham Lincoln.

* * *

THE original copy of Lincoln's Gettysburg address recently was moved from Springfield to the Chicago Historical Society on N. Clark. This marks the second original Lincoln document to be placed in care of the Society. The other was his Emancipation Proclamation. How it got there makes an interesting story: In 1863 President Lincoln received a letter from the officials planning a fair in Chicago. They requested that the President permit them to auction off the Proclamation and thus increase the fair's funds, which were to be used for Civil War veterans' homes and other war charities. Because it would benefit the veterans, the President acquiesced and dispatched the Proclamation to Chicago by special messenger. The document was purchased for \$3,000 by a Thomas Bryan of Chicago, who sent it to the Chicago Historical Society for safekeeping. It was destroyed, however, in the Chicago Fire of 1871.

* * *

Historians Think Lincoln Advised Slayer to Flee

Springfield, Feb. 11 (U.P.)—Historians expressed suspicion today that Abraham Lincoln connived with a State's attorney to have an accused murderess jump bond and escape trial.

However, they believe Lincoln's legal ethics were tempered by community sympathy for the 70-year-old woman he was defending during his law days.

The case also involved charges of bribery and more bond-jumping but without evidence. Honest Abe was connected with these practices.

State Historian Harry E. Pratt said this story of the "Melissa Govings murder trial," compiled by State Archival Assistant Ernest E. East, will appear in the journal of The State Historical Society in April. Tomorrow is the 144th anniversary of Lincoln's birth.

Farmer Killed With Club

Melissa Govings was the wife of 77-year-old Roswell Govings, Metamora, Ill., farmer. Roswell was later described by the Metamora Herald as "quarrelsome and bibulous."

On April 14, 1857, Melissa and Roswell quarreled over opening a window.

Mrs. Govings broke away from her husband, who was choking her, and hit him with a heavy piece of stovewood. Four days later he died of a skull fracture.

Before losing consciousness, Govings told a friend, "I expect she has killed me. If I get over it, I will have revenge."

'Moved by The Devil'

Mrs. Govings was indicted for murder by a Woodford County grand jury October 8, 1857. The jury said she committed the murder "not having fear of God before her eyes but being moved and seduced by fear of the devil."

She was freed under \$1,000 bond and pleaded innocent at arraignment October 10. The trial was scheduled to start immediately after arraignment.

Mrs. Govings' son, Josephus, later was charged with trying to bribe Justice of the Peace Robert T. Cassell with \$10 to dismiss the indictment at the arraignment hearing. Joseph was freed on \$250 bond but failed to appear for trial the next March.

Just before the trial was scheduled to start, Melissa Govings was allowed to confer with defense attorney Abraham Lincoln. After she went to that conference she was never reported seen again in Illinois.

'Tennessee Advice' Recited

When Cassell, who was also Circuit Court bailiff, went to look for Mrs. Govings, he found Honest Abe sitting alone. His conversation with Lincoln was recounted in 1921 by a lawyer who heard the story from Cassell, and this conversation was entered in the court records:

"Where is she, Abe?" Cassell asked. Lincoln said he didn't know.

"Confound you, Abe, you have run her off," Cassell said.

"Oh no, Bob," replied Lincoln, "I did not run her off. She

wanted to know where she could get a good drink of water and I told her there was mighty good water in Tennessee."

There was no search for Mrs. Govings. There is further suspicion from the agreement by Lincoln and State's Attorney Hugh Fullerton more than a year later to dismiss the suit for forfeiture of bond.

Whether Mrs. Govings followed Lincoln's advice on Tennessee drinking water isn't known. She was heard from once more. She was living in Tehama County, California, when she conveyed her Illinois farm rights in 1865.

WEDNESDAY, FEBRUARY 11, 1953

Lincoln Times

Old Court Record Reveals How Mercy Swayed Lincoln

Client Ducks Murder Trial

Historians marked Lincoln's 144th birthday Thursday by adding another chapter to the legend of the Great Emancipator.

It showed how Lincoln's legal ethics apparently were swayed by sympathy for a 70-year-old woman accused of murder.

State archival assistant Ernest E. East reports that Melissa Govings was allowed to skip bail and escape trial for murdering her husband, Roswell, 77.

He had died of a skull fracture after an argument in which he choked Melissa and she hit him with a piece of wood, East said.

LINCOLN, as defense lawyer, was allowed a conference with his client just before the trial. She was never seen in Illinois again.

East recounted a conversation read into the court record after Circuit Court bailiff Robert Caswell found Lincoln sitting alone, his client gone:

"Where is she, Abe?" Caswell asked. Lincoln said he didn't know.

"Confound you, Abe, you have run her off," Caswell said.

"Oh, no Bob, I have not run her off," said Lincoln. "She wanted to know where she could get a good drink of water, and I told her there was mighty good water in Tennessee."

Later, Melissa turned up living in California, East said, but she was never brought to trial.

ANOTHER TRIBUTE to Lincoln was paid by George D. Stoddard, University of Illinois president.

He recalled that Lincoln signed the Land-Grant College Act in 1862, making the university and others like it possible.

These schools, Stoddard said, "were a direct consequence of his

wartime interest in higher education." Stoddard pointed out that Lincoln himself was a genius in learning as he went along.

* * *

A LECTURE on "Congressman Lincoln" by Dr. Donald W. Riddle of the university was scheduled by the Civil War Round Table for 8 p.m. Friday in the G.A.R. memorial hall of the Chicago Public Library.

Other celebrations included one at the Lincoln monument in Lincoln Park and the first Chicago showing of a Lincoln portrait completed just after his death. It was on display at the Chicago Historical Society building.

* * *

CITY AND county offices, schools, most banks and Criminal, Municipal and Superior and Circuit courts were closed all day. Federal offices and courts remained open.

Motorists were warned that Loop parking restrictions remain in full force.

Lincoln's Advice on Drinking Water Cited in Study of 1857 Murder Case

His Murder Client Took a Powder

By JAMES J. KLOCKENKEMPER.
United Press Staff Writer.

SPRINGFIELD, Feb. 11.—Historians expressed suspicion today that Abraham Lincoln connived with a state's attorney to have an accused murderess jump bond and escape trial.

However, they believe Mr. Lincoln's legal ethics were tempered by community sympathy for the 70-year-old woman he was defending during his law days.

The case also involved charges of bribery and more bond jumping but without evidence Honest Abe was connected with these practices.

State Historian Harry E. Pratt said a story of the Melissa Govings murder trial, compiled by Ernest E. East, state archival assistant, will appear in the spring issue of the Journal of the State Historical Society in April. Tomorrow is the 144th anniversary of Mr. Lincoln's birth.

Quarreled Over Window.

Melissa Govings was the wife of Roswell Govings, 77, a Metamora, Ill., farmer. Mr. Govings was later described by the American Herald as "quarrelsome and bibulous."

On April 14, 1857, Melissa and her husband quarreled over opening a window. Mrs. Govings broke away from her husband, who was choking her, and hit him with a heavy piece of stovewood. Four days later he died of a skull fracture.

Before losing consciousness, Mr. Govings told a friend, "I expect she has killed me. If I get over it, I will have revenge."

Indicted for Murder.

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Mrs. Govings' son, Josephus, later was charged with trying to bribe Justice of the Peace Robert T. Cassell with \$10 to dismiss the indictment at the arraignment hearing. Joseph was freed on \$250 bond but failed to appear for trial the next March.

Just before the trial was scheduled to start, Melissa Govings was allowed to confer with Mr. Lincoln, her defense attorney. After she went to that conference, she

Mr. Lincoln's advice on Tennessee drinking water isn't known. She was living in Tehama County, Calif., when she conveyed her Illinois farm rights in 1865.

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Found Lincoln Alone.

When Mr. Cassell, who was also Circuit Court bailiff, went to look for Mrs. Govings, he found Mr. Lincoln sitting alone. His conversation with Mr. Lincoln was recounted in 1921 by a lawyer who heard the story from Mr. Cassell, and this conversation was entered in the court records:

"Where is she, Abe?" Mr. Cassell asked. Mr. Lincoln said he didn't know.

"Confound you, Abe, you have run her off," Cassell said.

"Oh no, Bob," replied Mr. Lincoln, "I did not run her off. She wanted to know where she could get a good drink of water and I told her there was mighty good water in Tennessee."

There was no search for Mrs. Govings. There is further suspicion from the agreement by Mr. Lincoln and State's Attorney Hugh Fullerton more than a year later to dismiss the suit for forfeiture of bond.

Whether Mrs. Govings followed

society incapable of telling right from wrong. In truth, the insanity defense is much older than Freudian psychology. It is an aged institution in American and English law. It was well established when Abraham Lincoln practiced law. He might have used it for his own clients, and he certainly saw it used in Illinois courtrooms. He never complained about its use, and the Illinois Supreme Court of Lincoln's day upheld the insanity defense and met some of the same arguments that are used against it today.

* In June, 1855, a man name Isaac Wyant became embroiled in a street brawl over a land boundary dispute. One Anson Rusk shot Wyant in the arm. After the limb was amputated near the shoulder, Wyant murdered Rusk in the County Clerk's office in Clinton, Illinois, on October 12, 1855. He shot him four times in broad daylight and in the presence of several witnesses. In 1857 the case (*The People v. Wyant*) was tried in Bloomington, Illinois (March 31-April 5), on a change of venue. David Davis was the judge, and Lincoln aided the prosecution.

Wyant pleaded not guilty by reason of insanity. His sanity had been questionable long before the murder, and several doctors, including the Superintendent of the State Hospital for the Insane at Jacksonville, testified for the defense. Wyant was acquitted and became an inmate at Jacksonville for several years thereafter. He was eventually released on condition that he return to his native Indiana to stay.

Joseph E. McDonald met Lincoln and other lawyers when they were discussing the case in Danville. Lincoln "had made a vigorous fight for the prosecution" and was surprised to learn that Wyant was an old friend of McDonald's. McDonald had frequently represented him as his counsel in various scrapes in the past. Lincoln wanted to know all about the defendant, and McDonald filled him in. As the lawyers headed to the courthouse the next day, Lincoln told McDonald that he had been much disturbed by what he had learned about Wyant. He had had trouble sleeping, fearing that "he had been too bitter and unrelenting in his prosecution." "I acted," Lincoln said, "on the theory that he was 'possuming' insanity, and now I fear I have been too severe and that the poor fellow may be insane after all. If he cannot realize the wrong of his crime, then I was wrong in aiding to punish him."

Lincoln had learned his lesson. Within a few months of the Wyant trial, Robert Sloo of Shawneetown, Illinois, killed a man who had written a newspaper article critical of Sloo's father. The father had been running for a minor office and was a friend of Lincoln's. He wrote Lincoln to ask for help in his son's defense. Lincoln could not go, but he recommended the lawyer who had successfully defended Wyant. Sloo, too, was found not guilty by reason of insanity.

There may well have been other instances of Lincoln's involvement with the insanity defense, but the lack of a definitive edition of Lincoln's legal papers makes it impossible to tell. By examining the statements of the state supreme court in the period, however, one can gain an appreciation for the reasonable nature of the use of the insanity defense in Lincoln's Illinois.

On July 18, 1859, Wesley B. Fisher murdered his wife Clarissa, apparently in LaSalle, Illinois. In the ensuing trial, the attempt by defendant's counsel to prove his wife's infidelity was forbidden on objection from the prosecutor. When the defense "offered in evidence Chitty's Medical Jurisprudence, Shelford on Lunacy, Beck's Medical Jurisprudence, Taylor's Medical Jurisprudence, and Wharton's Medical Jurisprudence, for the purpose of throwing light on the indications or symptoms of insanity" in Fisher's case, the court refused to admit them in evidence.

In its instructions to the jury, the court stated:

The law presumes every man to be sane until the contrary is shown, and when insanity is set up as a defense, by a person accused of crime, the jury should be satisfied, from all of the proofs in the case, that at the time of the commission of the crime his mind was so far affected with insanity as to

render him incapable of distinguishing between right and wrong, in respect to the killing, or if he were conscious of the act he was doing, and knew its consequences, he was, in consequence of his insanity, wrought up to a frenzy which rendered him *unable* to control his actions or direct his movements.

There followed other controversial instructions which the Supreme Court was later to single out for special comment:

5th. In arriving at the conclusion whether the prisoner was sane or insane, at the time of the killing, the jury should begin with the presumption of the prisoner's sanity, and take into account all the evidence in the case of his previous history, habits and conduct, the circumstances immediately connected with the act of killing and his subsequent conduct and deportment, and unless the evidence preponderates in favor of his insanity at the time of the act, the jury cannot excuse the prisoner on the plea of insanity.

6th. Even if there should be evidence tending to show that the prisoner was insane, or affected with insanity previous to the act of killing, yet the question for the jury on this point is, whether he was insane at the time of the act complained of, and unless the jury are satisfied, from *all* the proof in the case, that the prisoner was insane *at the time of the act of killing*, they should not excuse him on that ground.

7th. Before the jury can be justified in rendering a verdict of acquittal on the ground of moral insanity, they must be satisfied by *clear and undoubted proof* that the accused was acting under an uncontrollable impulse, a frenzy which rendered him unable to control his actions or direct his movements, and not in a spirit of revenge for real or imagined wrong.

9th. The prosecution are not bound to prove that the defendant was sane at the time of the act complained of, and if the whole evidence in the case should leave it doubtful in the minds of the jury whether the prisoner was sane or insane at the time, they should not in that case excuse the prisoner on the ground of insanity.

These instructions came very close to putting the burden of proof on the defendant.

The Fisher case was a remarkable one not only because of the court's controversial instructions to the jury but also because the defense attempted what might be called an "insanity mitigation" of the crime as well as a traditional insanity defense. Counsel for the defense asked the court to instruct the jury thus:

Although the prisoner may not have been so insane as to excuse him entirely, yet, in determining whether at the time of the killing he acted without deliberation, and under the influence of such a sudden and irresistible passion as would reduce the grade of the offense from murder to manslaughter, it is proper for the jury, if they believe that the same provocation would arouse such a sudden and irresistible passion in his mind, if so affected by jealousy, when it would not have aroused it if he had not been jealous, to take into consideration the fact, if proven, that he was jealous, in determining the degree and extent of the passion which existed at the time of the killing.

... Although the prisoner may not have been so insane as to excuse him entirely, yet in determining whether at the time of the killing he acted without deliberation, and under the influence of such a sudden and irresistible passion as would reduce the grade of the offense from murder to manslaughter, it is proper for the jury, if they believe that the same provocation would arouse such a sudden and irresistible passion in his mind, if so affected by drunkenness, when it would not have aroused it if he had not been affected with drunkenness, to take into consideration the fact, if proven, that he was affected with drunkenness, in determining the degree and extent of the passion which existed at the time of the killing.

The jury was perplexed by the complicated instructions and

IN LINCOLN'S LAW OFFICE.

How a Man Charged with Murder Was Successfully Defended.

The morning I entered the office Mr. Lincoln and his partner, William H. Herndon, were both present. Mr. Lincoln addressed his partner thus: "Billie, this is the young man of whom I spoke to you. Whatever arrangement you make with him will be satisfactory to me." Then turning to me he said: "I hope you will not become so enthusiastic in your studies of Blackstone and Kent as did two young men whom we had here. Do you see that spot over there?" pointing to a large ink stain on the wall. "Well, one of those young men got so enthusiastic in his pursuit of legal lore that he fired an inkstand at the other one's head, and that is the mark he made." I immediately began to clean up about the office a little. Mr. Lincoln had been in congress and had the usual amount of seeds to distribute to the farmers. These were sent out with Free Soil and Republican documents. In my efforts to clean up I found that some of the seeds had sprouted in the dirt that had collected in the office.

Judge Logan and Mr. Lincoln were once engaged on opposite sides of a horse case. Judge Logan displayed a great deal of knowledge about horses, and, as was the custom with lawyers at that day, in the heat of the argument had laid off his coat and vest. Unfort-



"DO YOU SEE THAT SPOT?"

unately for him he had put his shirt on hind side before. When he had finished Mr. Lincoln arose and asked his opponent if he would please rise. The judge complied. "Will you please turn your back to the jury? Now, gentlemen of the jury," said Lincoln, "what sort of value can you place upon Judge Logan's knowledge of horses when he doesn't know enough to put his shirt on right side foremost when he comes into court?" A roar of laughter followed this sally, and when Mr. Lincoln had finished his argument the jury gave a verdict in his favor.

Mr. Lincoln was engaged in a case which made a great deal of stir in Illinois while I was a student in his office. One Greek Crafton, a strong, burly fellow, was paying attentions to a young lady living in the vicinity of Springfield. She had another suitor at the same time by the name of Quinn Harrison. Crafton told Harrison if he didn't cease his attentions to the young lady he would thrash him. Harrison replied that if he made an attack upon him he would defend himself. Crafton one day came to the postoffice, and seeing Harrison reading a newspaper, threw his arms around him and tried to hold him. Harrison struggled away, and drawing a dagger plunged it into Crafton's vitals. Crafton's lawyers claimed on the trial that he acted in self defense.

I was in the court when Mr. Lincoln made his speech before the jury for Harrison. He used this illustration: "In the early days a party of men went out to hunt the wild boar. When the game was seen one of the hunters immediately climbed a tree; the other seized the game by the ears, and after several ineffectual tussles with him he cried to his companion, who was up the tree, 'For God's sake, Jim, come down and help me to let go.'" Mr. Lincoln made this application of the story: "If Crafton took hold of Harrison in self defense, it follows logically that he would have to continue to hold him for all time, and that eventually he would require some one to help him let go." The jury gave a verdict of acquittal for Mr. Lincoln's client.—From Reminiscences by J. H. Littlefield.

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... ABE LOST MURDER CASE

Emancipator, in His Law Circuit Days, Was Chosen by the Court to Defend First Killer in County Tried and Convicted

ABRAHAM LINCOLN is frequently mentioned in the earliest history of Champaign County, a county which this year celebrates the 100th anniversary of its birth. Lincoln was a frequent visitor in the county, and was among the first lawyers to practice in the circuit court.

Lincoln, with Asahel Gridley, defended William Weaver of Urbana, the first murderer in this county to be brought to trial and convicted. The sentence, however, was never fulfilled, for Weaver escaped.

But—read of the case as extracted from the "History of Champaign County, with illustrations," published in Brink, McDonough and Co., of Philadelphia, Pa., in 1878.

It says:

"The first murder in this county for which there was a trial and conviction was that known as the Weaver-Hiltibran murder. On the 10th day of October, 1844, William Weaver, of Urbana, a miserable, drunken, reckless wretch, shot David Hiltibran in the right side, with a rifle, without any apparent motive, except the fiendish recklessness that often attends men who have become besotted.

"He was arrested, and indicted at the May term of 1845, by a grand jury, of which William D. Somers, Esq., was foreman. Judge Samuel H. Treat being on the bench, I. A. McDougal, attorney for the State, T. R. Webber, clerk, and Wilson Lewis, sheriff.

"The following jurors tried the case: Joseph White, Harrison W. Drellinger, Alexander Walter, Henry Sadorus, W. H. Brobst, Charles W. Pitchan, David Hammer, John Hammer, John Mead, Winston Somers, Michael Finebaugh and Wells Edgerton.

 Abe Was Appointed

"ON THE opening of the trial, Abraham Lincoln, who became before his death 'the fore-



ABRAHAM LINCOLN

A celebrated portrait . . .

This picture of the Great Emancipator was made in 1860, just before Lincoln entered the White House, following his triumphal and historic election victory. It was taken about 15 years after Lincoln served as counsel in this Champaign County murder trial, but is typical of facial expression before the dark days of the Civil War. During the strain of the 1860-5 period, Lincoln's countenance changed perceptibly and his face showed many deep lines—the imprints of sorrow and worry.

most man of all the world' and Asahel Gridley were appointed by the court to defend the prisoner, but his guilt was too well established during the trial to admit any

verdict but 'guilty,' and William Weaver was accordingly sentenced to be hung on Friday, June 27th, 1845.

"A few days later, however, before the execution, he made his escape from jail, fled to Wisconsin, and was never recaptured. He subsequently changed his name, reformed and lived a decent life. His near view of the gallows seems to have somewhat revolutionized him and put him on his good behavior."

The history, which is owned by Harry L. Clements, 602 East Springfield Avenue, having been handed down through several generations, also gives the following outline of the earliest crime of the county:

 "Crime—First Murder in County

"WHILE yet our first parents lived on earth was it saddened by the hand of violence, and the blood of Abel cried to God, from the ground, against the murderer, Cain. How often since that sorrowful day of the morning of the race has the hand of man been imbued in the blood of his brother.

"The names of the first murderer and his victim are alike unknown. A tradition, however, informs us that in early times, before the settlement of this country, a thief, who had stolen a horse in Indiana, fled with his booty westward. A band of "regulators" pursued and overtook him at a point known as "Tow Head," an isolated clump of trees on the ridge a mile north of the present village of Philo.

"Overcome by fatigue, he was sleeping beneath a tree, with the stolen horse tethered near. The avengers sent a rifleball crashing through his brain, and he passed without a struggle from the repose of sleep to the repose of death. His body was left to rot unburied, and the bleached skeleton was seen by early settlers who passed the lonely road."

Lawyer Lincoln Had a Real Gone Client

BLOOMINGTON, Ill., Dec. 19—It is the opinion of Wayne C. Townley Sr. that Abe Lincoln did not quite break even in Bloomington.

"He lost a speech here on May 29, 1856," said Mr. Townley, "but on the other hand he got his first pair of glasses on W. Washington st. for 37 cents. But then Mr. Lincoln noted that he lost a tooth to a Bloomington dentist, altho he admitted he got a bargain because the dentist also took part of his jawbone."

To hear Mr. Townley speak of the Great Emancipator, you might think he had just come fresh from having tea and tiffin with Honest Abe. He was fascinated, was Mr. Townley, by Mr. Lincoln's defense of a Mrs. Goings in an Illinois court.

"Mrs. Goings' husband was a cripple," said Mr. Townley, "and one morning he saw his wife come in with a large stick of wood. 'What are you going to do?' he asked. 'Beat my brain out with that club?' She said, 'No, I am going to walk clear across the room as you are not worth it, but if you ever come over here I might.'"

Well, Mr. Goings hobbled over, and she did. And Mr. Goings, before he passed to his reward, told the story.

"Mr. Lincoln was her lawyer," continued Mr. Townley, "and he talked to her in court for some time. When they got ready to summon her to the bench, Mrs. Goings had gone. The court said, 'Mr. Lincoln, you talked to her last, you did not tell her to go?' Abe said no, he hadn't.

"Some time later someone asked Abe what he said to Mrs. Goings. 'She said she would like to have a drink of water,' Mr. Lincoln replied. 'I just told her that they had very nice, cool water in Tennessee.'"

HERE MR. TOWNLEY digressed to note that he was considerably puzzled by a lady reporter in Bloomington, a Mrs. Grace Austin, who was current when he was a young lawyer.

Swelling usually reaches its maximum in 48 hours and red, and jaw movements in-crease pain.

ABE MARTIN



It's no trouble to pass in a self-examination.

and it always said, 'Wayne Townley also spoke.'

It reminded him, said Mr. Townley, of two young men who had been training a dog to be a good watchdog by having this canine attack their father's overalls. They forgot to tell the father, and one day he donned the overalls and was being badly mauled by the proposed watchdog. The sons came on the scene and saw their father on the floor, with the dog atop tooting him.

"One of these boys said to the other," reported Mr. Townley, "'Now that's pretty tough on paw, but it's going to be the making of that dog.'"

MR. TOWNLEY added that he could never understand why everyone wanted to think of Abe Lincoln as a poor man. He pointed out Abe had \$110,000 when he died, and added that the Illinois Central tried to pay him \$250 for a tax case, and Abe asked \$5,000, and the railroad said, "We could have got Daniel Webster for \$2,000," but Abe sued and got the full amount.

"Abe could have bought 200 acres of McLean county land with that \$5,000," Mr. Townley continued, "but today that land is worth in excess of \$100,000. Under the present income tax laws, Abe would have had to get a fee of \$700,000 to keep \$100,000, so there you are."

Mr. Townley looked at his watch and said it was time for his game of pool. Mr. Townley always plays a game of pool at the noon hour.

